

107TH CONGRESS  
1ST SESSION

# S. 576

To require health insurance coverage for certain reconstructive surgery.

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IN THE SENATE OF THE UNITED STATES

MARCH 20, 2001

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To require health insurance coverage for certain  
reconstructive surgery.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Reconstructive Surgery  
5       Act of 2001”.

6       **SEC. 2. COVERAGE OF RECONSTRUCTIVE SURGERY**

7       (a) GROUP HEALTH PLANS.—

8               (1) PUBLIC HEALTH SERVICE ACT AMEND-  
9       MENTS.—

1 (A) IN GENERAL.—Section 2706 of the  
 2 Public Health Service Act (42 U.S.C. 300gg–6)  
 3 is amended to read as follows:

4 **“SEC. 2706. COVERAGE OF RECONSTRUCTIVE SURGERY.**

5 “(a) REQUIREMENT.—A group health plan and a  
 6 health insurance issuer offering group health insurance  
 7 coverage in connection with a group health plan that pro-  
 8 vides coverage for surgery shall provide coverage for re-  
 9 constructive surgery.

10 “(b) DEFINITION.—In subsection (a), the term ‘re-  
 11 constructive surgery’ means any medically necessary and  
 12 appropriate surgery performed to correct or repair abnor-  
 13 mal structures of the body caused by congenital defects,  
 14 developmental abnormalities, trauma, infection, tumors, or  
 15 disease to—

16 “(1) improve functions; or

17 “(2) give the patient a normal appearance, to  
 18 the extent possible, in the judgment of the physician  
 19 performing the surgery.

20 “(c) RULE OF CONSTRUCTION.—

21 “(1) IN GENERAL.—Nothing in this section  
 22 shall be construed to require a group health plan or  
 23 health insurance issuer in connection with a group  
 24 health plan to provide coverage for cosmetic surgery.

1           “(2) DEFINITION.—In paragraph (1), the term  
 2           ‘cosmetic surgery’ means surgery that is performed  
 3           to alter or reshape normal structures of the body in  
 4           order to improve appearance.”.

5           (B) CONFORMING AMENDMENT.—Section  
 6           2723(c) of the Public Health Service Act (42  
 7           U.S.C. 300gg–23(c)) is amended by striking  
 8           “section 2704” and inserting “sections 2704  
 9           and 2706”.

10          (2) ERISA AMENDMENTS.—

11           (A) IN GENERAL.—Section 713 of the Em-  
 12           ployee Retirement Income Security Act of 1974  
 13           (29 U.S.C. 1185b) is amended to read as fol-  
 14           lows:

15   **“SEC. 713. COVERAGE FOR RECONSTRUCTIVE SURGERY.**

16           “(a) REQUIREMENT.—A group health plan and a  
 17           health insurance issuer offering group health insurance  
 18           coverage in connection with a group health plan that pro-  
 19           vides coverage for surgery shall provide coverage for re-  
 20           constructive surgery.

21           “(b) DEFINITION.—In subsection (a), the term ‘re-  
 22           constructive surgery’ means any medically necessary and  
 23           appropriate surgery performed to correct or repair abnor-  
 24           mal structures of the body caused by congenital defects,

1 developmental abnormalities, trauma, infection, tumors, or  
 2 disease to—

3 “(1) improve functions; or

4 “(2) give the patient a normal appearance, to  
 5 the extent possible, in the judgment of the physician  
 6 performing the surgery.

7 “(c) RULE OF CONSTRUCTION.—

8 “(1) IN GENERAL.—Nothing in this section  
 9 shall be construed to require a group health plan or  
 10 health insurance issuer in connection with a group  
 11 health plan to provide coverage for cosmetic surgery.

12 “(2) DEFINITION.—In paragraph (1), the term  
 13 ‘cosmetic surgery’ means surgery that is performed  
 14 to alter or reshape normal structures of the body in  
 15 order to improve appearance.”.

16 (B) CONFORMING AMENDMENTS.—

17 (i) Section 731(c) of such Act (29  
 18 U.S.C. 1191(c)) is amended by striking  
 19 “section 711” and inserting “sections 711  
 20 and 713”.

21 (ii) Section 732(a) of such Act (29  
 22 U.S.C. 1191a(a)) is amended by striking  
 23 “section 711” and inserting “sections 711  
 24 and 713”.

1 (iii) The table of contents in section 1  
 2 of such Act is amended by inserting after  
 3 the item relating to section 712 the fol-  
 4 lowing new item:

“Sec. 713. Coverage for reconstructive surgery.”.

5 (b) INDIVIDUAL MARKET.—Section 2752 of the Pub-  
 6 lic Health Service Act (42 U.S.C. 300gg–52) is amended  
 7 to read as follows:

8 **“SEC. 2752. COVERAGE FOR RECONSTRUCTIVE SURGERY.**

9 “The provisions of section 2706 shall apply to health  
 10 insurance coverage offered by a health insurance issuer  
 11 in the individual market in the same manner as they apply  
 12 to health insurance coverage offered by a health insurance  
 13 issuer in connection with a group health plan in the small  
 14 or large group market.”.

15 (c) EFFECTIVE DATES.—

16 (1) GROUP HEALTH PLANS.—Subject to para-  
 17 graph (3), the amendments made by subsection (a)  
 18 shall apply with respect to group health plans for  
 19 plan years beginning on or after January 1, 2001.

20 (2) HEALTH INSURANCE COVERAGE.—The  
 21 amendment made by subsection (b) shall apply with  
 22 respect to health insurance coverage offered, sold,  
 23 issued, renewed, in effect, or operated in the indi-  
 24 vidual market on or after such date.

1 (3) COLLECTIVE BARGAINING AGREEMENTS.—

2 In the case of a group health plan maintained pur-  
 3 suant to 1 or more collective bargaining agreements  
 4 between employee representatives and 1 or more em-  
 5 ployers ratified before the date of enactment of this  
 6 Act, the amendments made by subsection (a) shall  
 7 not apply to plan years beginning before the later  
 8 of—

9 (A) the date on which the last collective  
 10 bargaining agreements relating to the plan ter-  
 11 minates (determined without regard to any ex-  
 12 tension thereof agreed to after the date of en-  
 13 actment of this Act), or

14 (B) January 1, 2002.

15 For purposes of subparagraph (A), any plan amend-  
 16 ment made pursuant to a collective bargaining  
 17 agreement relating to the plan which amends the  
 18 plan solely to conform to any requirement added by  
 19 subsection (a) shall not be treated as a termination  
 20 of such collective bargaining agreement.

21 (d) COORDINATED REGULATIONS.—Section 104(1)  
 22 of Health Insurance Portability and Accountability Act of  
 23 1996 (Public Law 104–191) is amended by striking “this  
 24 subtitle (and the amendments made by this subtitle and  
 25 section 401)” and inserting “the provisions of part 7 of

- 1 subtitle B of title I of the Employee Retirement Income
- 2 Security Act of 1974, and the provisions of parts A and
- 3 C of title XXVII of the Public Health Service Act”.

